

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Mac Muir	Team: Squad #6	CCRB Case #: 202101013	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 02/10/2021 1:00 PM	Location of Incident: § 87(2)(b)	Precinct: 44	18 Mo. SOL 8/10/2022	EO SOL 8/10/2022	
Date/Time CV Reported Mon, 02/15/2021 9:16 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 02/15/2021 9:16 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Jeffrey Santos	05777	957133	044 PCT
2. DTS Johnpaul Catano	00210	945159	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A.DTS Johnpaul Catano	Abuse: Detective Johnpaul Catano entered § 87(2)(b) in the Bronx.	
B.POM Jeffrey Santos	Abuse: Police Officer Jeffrey Santos failed to obtain language interpretation services for § 87(2)(b)	
C.DTS Johnpaul Catano	Abuse: Detective Johnpaul Catano failed to obtain language interpretation services for § 87(2)(b)	
D.POM Jeffrey Santos	Force: Police Officer Jeffrey Santos used physical force against § 87(2)(b)	
E.POM Jeffrey Santos	Force: Police Officer Jeffrey Santos restricted § 87(2)(b)'s breathing.	

Case Summary

On February 10, 2021, § 87(2)(b) submitted this complaint with the CCRB via telephone.

On February 10, 2021, at approximately 1:00 p.m., Detective Johnpaul Catano and Police Officer Jeffrey Santos of the 44th Precinct responded to § 87(2)(b) in the Bronx, in response to a 911 call from § 87(2)(b) § 87(2)(b)'s father. Det. Catano entered the apartment (**Allegations A: Abuses of Authority:** § 87(2)(g)) followed by PO Santos. § 87(2)(b) complained that § 87(2)(b) her father, stole \$2200 dollars from her. PO Santos and Det. Catano asked § 87(2)(b) for his version of the incident and he provided his statement in Hungarian with the assistance of his son, § 87(2)(b) as an interpreter (**Allegations B and C: Abuse of Authority:** § 87(2)(g)). PO Santos instructed § 87(2)(b) to stand up and escorted him down a hallway to § 87(2)(b)'s bedroom. PO Santos allegedly threw § 87(2)(b) to the ground (**Allegation D: Force:** § 87(2)(g)). PO Santos allegedly placed his knee between § 87(2)(b)'s shoulder blades near his neck and compressed his neck (**Allegation E: Force:** § 87(2)(g)). § 87(2)(b) was arrested for § 87(2)(b), § 87(2)(a) 160.50 (BR 01).

The District Attorney's office declined to prosecute when § 87(2)(b) refused to cooperate. § 87(2)(b) complained that Det. Catano and PO Santos stole \$3400 from him, and this allegation was spun off to IAB via Case #202102111.

BWC footage was obtained from the NYPD Legal Bureau (BR 02-03). No surveillance footage was obtained by the investigation.

Findings and Recommendations

Allegation A – Abuse of Authority: Detective Johnpaul Catano entered § 87(2)(b) in the Bronx.

PO Santos' BWC footage (BR 02) and Det. Catano's BWC footage (BR 03), both beginning at 01:45, showed that § 87(2)(b) opened his front door and Det. Catano asked if they could come in. § 87(2)(b) opened the door wider and said, "Yes." Det. Catano walked in and PO Santos followed.

§ 87(2)(b) testified when he opened the door, both officers entered without introducing themselves.

Det. Catano testified that he received a radio notification about a family dispute at § 87(2)(b) in which a female caller, § 87(2)(b) said her father took her money. On the way to that location, Det. Catano and PO Santos called § 87(2)(b) who said that in January 2021 her father had forced her to give her money. When they arrived, Det. Catano knocked on the door and § 87(2)(b) opened it. They asked § 87(2)(b) if he called the police. § 87(2)(b) shook his head. They asked if anyone else was in the apartment and if they could enter. § 87(2)(b) nodded to indicate 'Yes' and moved out of the way. Det. Catano was not aware of any documentation that was required when someone provided consent to enter a residence. Though he was aware of the Right to Know Act, he was not aware of any provision in the Right to Know Act related to consent entries into an apartment. He was not aware of any requirement to inform someone that they may rescind their consent.

According to Event #§ 87(2)(b) (BR 09), a female caller stated that her father, § 87(2)(b) threatened her, and that she wanted to make a report.

Officers may enter an apartment without a warrant or probable cause where there is voluntary consent to enter. People v. Gonzalez, 39 N.Y.2d 1222 (1976) (BR 04).

According to New York Administrative Code Law §14-173, the NYPD shall provide guidance for its officers to, when obtaining consent to search a person's home, articulate that the search will not be conducted if such person refuses to provide consent to search (BR 08).

Det. Catano asked whether the officers could enter, and § 87(2)(b) replied by opening the door wider and saying "Yes." § 87(2)(g)

Given that there was not an emergency, Det. Catano's authority to enter the apartment was reliant on § 87(2)(b)'s consent. § 87(2)(g)
Det. Catano did not inform § 87(2)(b) that he could have refused to provide consent to enter.

§ 87(2)(g)

Allegation B – Abuse of Authority: Police Officer Jeffrey Santos failed to obtain language interpretation services for § 87(2)(b)

Allegation C – Abuse of Authority: Detective Johnpaul Catano failed to obtain language interpretation services for § 87(2)(b)

PO Santos and Det. Catano's BWC videos (BR 2, BR 3), captured the entirety of their interactions with § 87(2)(b) from the time the officers entered the residence until they left. At 1:37 minute mark, officers arrive at § 87(2)(b)'s door with a security officer from the shelter and asked twice if he called for officers. § 87(2)(b) does not provide a response in English. The security officer also asked if someone called for officers and then tells the officers that § 87(2)(b) is Turkish and does not speak [either English or that much]. An officer asked § 87(2)(b) if there was anyone else in the residence. § 87(2)(b) appears to say "Yes" and opens the door wider. The officers enter the living room and speak with § 87(2)(b) in the presence of § 87(2)(b) who is seated nearby. § 87(2)(b) states that she was forced to give her father \$2200 dollars and he never returned the money. At the 5:40 minute mark, as § 87(2)(b) is preparing a domestic incident report, PO Santos asked § 87(2)(b)'s son, § 87(2)(b) to interpret. PO Santos told § 87(2)(b) that § 87(2)(b) said he § 87(2)(b) forced her to give him \$2000 dollars and wanted his § 87(2)(b)'s side of the story. § 87(2)(b) interprets for § 87(2)(b) who speaks entirely in Hungarian and only says a few words in English. § 87(2)(b) provides a statement. § 87(2)(b) interprets that § 87(2)(b) stated that he "borrowed the money". At the 7:15 minute mark, the officers ask § 87(2)(b) if he knew what transpired. § 87(2)(b) interjects and speaks in Hungarian to § 87(2)(b) and then says "Family" and gestures to § 87(2)(b) stating, "No help". At the 12:00 minute mark, § 87(2)(b) completes her report and hands it to PO Santos. After PO Santos reviews the report, he hands § 87(2)(b) a copy and says that an ADA is going to call her. A voice is heard asking if PO Santos was going to "cuff him". PO Santos responds affirmatively. At the 12:37 minute mark, Det. Catano gestures for § 87(2)(b) to stand up and tells § 87(2)(b) that § 87(2)(b) will need a jacket because he was going back to the precinct. At the 15:27 minute mark, § 87(2)(b) stands up but then sits back down on his chair. An officer tells § 87(2)(b) to tell § 87(2)(b) to get dressed. § 87(2)(b) takes his clothes to the bedroom and is followed by PO Santos. § 87(2)(b) makes a comment in Hungarian seemingly confused as to why PO Santos followed him to get dressed. § 87(2)(b) continued to make remarks in Hungarian and does not get dressed. PO Santos then tells him to get out of the bedroom and he is handcuffed by Det. Catano.

§ 87(2)(b) alleged that throughout the time he spoke with Det. Catano and PO Santos inside his apartment, he continuously asked for an interpreter. Whenever the officers asked him something, he replied, "interpreter" in English. The officers did not obtain an interpreter.

§ 87(2)(g)

Det. Catano testified that he assumed § 87(2)(b) spoke English throughout their interactions because § 87(2)(b) appeared to understand the questions he asked at the front door. Midway through speaking inside, § 87(2)(b)'s son said that § 87(2)(b)'s English was not very good, and § 87(2)(b)'s son acted as an interpreter for the rest of the conversation. § 87(2)(b) never requested an interpreter. At the stationhouse, § 87(2)(b) spoke to Det. Catano in English, and communicated that he needed to go to the hospital.

When determining whether a person requires language assistance services, the member of service must consider the nature and importance of the police services being provided, in addition to the person's apparent capacity to comprehend and communicate in English. If doubt exists regarding whether a person requires language assistance services, or if the person requests an interpreter, that person should be considered "Limited English Proficient." During domestic violence incidents, members of service should avoid using bystanders and family members to interpret to preserve privacy and reduce risk of faulty interpretation. They may temporarily be used for interpretation to gather preliminary information. NYPD Patrol Guide Procedure 212-90 (BR 10).

BWC footage confirmed that § 87(2)(b) did not request an interpreter as he claimed he did. However, BWC footage also confirmed that there was a language barrier between § 87(2)(b) and the officers. As noted in the Patrol Guide, officers are required to provide interpretation if there is doubt the civilian is able to comprehend and communicate in English. Upon entry into the residence, the security guard informed the officers of the language barrier and § 87(2)(b)'s inability to comprehend English was evident by § 87(2)(b)'s lack of response to the basic question of whether he called for officers to respond to the location. While inside the residence, officers relied on § 87(2)(b) a family member, to interpret for § 87(2)(b). Though PO Santos only asked § 87(2)(b) one question directly to him, that question was specifically related to the crime and went beyond preliminary questioning of § 87(2)(b). § 87(2)(b)'s inability to understand that he was being arrested was further depicted by the fact that even after Det. Catano gestured for § 87(2)(b) to stand up, § 87(2)(b) stood up but then sat back down, was not getting dressed and seemed confused as to why PO Santos followed him to the bedroom to get dressed. § 87(2)(g)

§ 87(2)(g)

Allegation D – Force: Police Officer Jeffrey Santos used physical force against § 87(2)(b)

Allegation E – Force: Police Officer Jeffrey Santos restricted § 87(2)(b)'s breathing.

Det. Catano and PO Santos' BWC videos (BR 02, 03), captured the entirety of their interactions with § 87(2)(b). It showed the officers speaking to § 87(2)(b) about the dispute with his daughter, place him into handcuffs while he stood upright, and escort him from the building. Although § 87(2)(b) screamed at the officers and verbally disputed the terms of his arrest, he was never placed on the ground and the officers did not use any force. The officers walked him out of the residence without issue.

§ 87(2)(b) testified that after the officers asked him to stand up, and prior to being placed into handcuffs, PO Santos escorted him into his bedroom, patted him down from head to toe, and threw him to the ground. While on the ground, PO Santos kneeled over his body and pressed his knee between § 87(2)(b)'s shoulder blades. § 87(2)(b)'s breathing was restricted because of the compression to his neck. PO Santos kept his knees on § 87(2)(b)'s neck and back for two to four minutes. § 87(2)(b) believed that PO Santos intentionally compressed his neck to kill him. § 87(2)(b) repeatedly yelled for help. PO Santos lessened the pressure on § 87(2)(b)'s neck and placed him into handcuffs before escorting him to the stationhouse.

§ 87(2)(b) § 87(2)(b) testified that she was informed by a security guard at the facility that there was a dispute in § 87(2)(b). She entered the apartment and observed § 87(2)(b) yell at the officers as he stood upright and was placed into handcuffs. The officers only held his arms behind his back as they escorted him out of the building to the precinct.

As per the BWC, PO Santos did not throw § 87(2)(b) to the ground or place his knee on his back at any point while they were in his residence or while they placed him in handcuffs. § 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 05).
- Det. Catano has been a member-of-service for 13 years and has been a subject of four CCRB complaints and five allegations, none of which were substantiated.
- PO Santos has been a member-of-service for six years and has been a subject of three CCRB complaints and six allegations, none of which were substantiated.

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation.
- As of April 6, 2021, the NYC Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint (BR 06).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (BR 07).

Squad 6

Investigator: Mac Muir Supervising Investigator Muir 08/11/21
Signature Print Title & Name Date

Squad Leader: Jessica Peña IM Jessica Peña 4/25/2022
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date

